

## Department of Planning and Budget 2007 Fiscal Impact Statement

**1. Bill Number** SB1354

<b>House of Origin</b>	<input checked="" type="checkbox"/> Introduced	<input type="checkbox"/> Substitute	<input type="checkbox"/> Engrossed
<b>Second House</b>	<input type="checkbox"/> In Committee	<input type="checkbox"/> Substitute	<input type="checkbox"/> Enrolled

**2. Patron** Wagner

**3. Committee** Commerce and Labor

**4. Title** Occupational safety and health; civil penalties.

**5. Summary/Purpose:** This bill prevents the Commissioner of Labor and Industry from assessing civil penalties on an employer for a cited violation of occupational safety and health standards until (i) the Safety and Health Codes Board has designated the occupation as a hazardous occupation and (ii) the employer has received written notice of the designation. Any designation of an occupation as hazardous shall be based upon the federal Occupational Safety and Health Administration's (OSHA) determinations of the highest hazard industries.

**6. Fiscal Impact Estimates are:** Preliminary, see item 8 (below).

**7. Budget amendment necessary:** Yes. Item 111.

**8. Fiscal implications:** This bill makes the Department of Labor and Industry (DOLI) responsible for the promulgation of regulations for the 830 occupations currently classified by the Virginia Employment Commission. DOLI anticipates that this will require two additional FTE's, at a cost of \$125,000 (including salary/fringes and support costs) in order to handle the added workload. In addition, DOLI would be required, each year, to notify all 210,000 employers in the Commonwealth of their stated hazard designation, a recurring mailing expense of \$90,000. The preliminary total cost of this bill would then be a recurring cost to the general fund of \$215,000.

In order for the Commonwealth to maintain jurisdiction over its occupational safety and health program, it must demonstrate that its program is providing, in actual operation, worker protection "at least as effective as" the protection provided by the federal program.

DOLI anticipates that this bill may jeopardize the state's "at least as effective as" status, as it prevents them, for a period of up to eighteen months, from being able to assess penalties for violations. Therefore, DOLI anticipates that this bill may result in the Federal Occupational Safety and Health Administration (OSHA) assuming responsibilities for the enforcement of these regulations. Should OSHA takeover occupational safety and health regulation for Virginia, the current 50/50 match of federal-to-state dollars would no longer be in effect. Therefore, this bill could result in a significant change to responsibilities and funding needs for DOLI since Federal OSHA would assume all responsibilities for enforcement of occupational safety and health laws in Virginia.

Should OSHA takeover, the state would experience both additional costs and savings. This bill may result in a savings for the state as a federal takeover would void any need for a state OSHA program, reducing operating expenses for DOLI in the amount of \$2.4 million annually and 76 FTE's under Item 111 (the state payment of \$1.7 million for these FTE's is half of their total cost, and is included in the \$2.4 million). Regulations currently enforced by DOLI at the state level generate a substantial amount of revenue from the issuance of civil penalties, so a federal "takeover" would result in an annual revenue loss of more than \$3.0 million to the general fund (a revenue intake that currently pays for more than the state's share of the cost of the program). In addition, in accordance with the Workforce Transition Act of 1995, the state would be required to pay a one-time severance fee for all terminated employees. At this time an estimate of the costs is not available, however, DOLI reports that the current total base salary costs for these 76 FTEs is \$3.4 million (not including any costs for fringe payments or other requirements of the WTA). There is the possibility that the federal government will pay up to \$1.7 million of these severance costs, however this is not guaranteed. Finally, DOLI reports that a portion of federal funding they currently receive as part of the 50/50 match of federal-to-state dollars is used to pay for operating expenses in programs other than occupational safety and health regulation. Therefore, a loss of federal funding would create an operating budget need for DOLI (for programs other than OSHA) of over \$1.2 million.

Overall, should this bill result in a federal takeover of DOLI's current responsibilities for occupational safety and health regulation, the state would save \$2.5 million a year, but would incur one-time fee costs for severance expenses (predicted to be a minimum of \$3.4 million), incur approximately \$1.2 million in additional recurring operating expenses for DOLI, and experience an annual revenue reduction of approximately \$3.0 million—all in general fund dollars.

**9. Specific agency or political subdivisions affected:** Department of Labor and Industry.

**10. Technical amendment necessary:** No.

**11. Other comments:** None.

**Date:** 1/19/07 / aek

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**cc:** Secretary of Commerce and Trade